

Effective 5/10/2016

32B-4-303 Special burdens of proof -- Inferences and presumptions.

- (1) In a prosecution of an offense defined in this title or in a proceeding brought to enforce this title:
 - (a) it is not necessary that the state or commission establish:
 - (i) the precise description or quantity of an alcoholic product; or
 - (ii) the precise consideration, if any, given or received for an alcoholic product;
 - (b) there is an inference, absent proof to the contrary, that an alcoholic product in question is an alcoholic product if the witness describes it:
 - (i) as an alcoholic product;
 - (ii) by a name that is commonly applied to an alcoholic product; or
 - (iii) as intoxicating;
 - (c) if it is alleged that an entity for which a record is required to be filed with the Division of Corporations and Commercial Code to be organized or conduct business in this state has violated this title, the fact of the entity is presumed absent proof to the contrary;
 - (d) a record signed or purporting to be signed by a state chemist, assistant state chemist, or state crime laboratory chemist, as to the analysis or ingredients of an alcoholic product is:
 - (i) prima facie evidence:
 - (A) of the facts stated in that record; and
 - (B) of the authority of the person giving or making the record; and
 - (ii) admissible in evidence without proof of appointment or signature absent proof to the contrary; and
 - (e) a copy of an entry made in a record of the United States internal revenue collector, certified by the collector or a qualified notary public, showing the payment of the United States internal revenue special tax for the manufacture or sale of an alcoholic product is prima facie evidence of the manufacture or sale by the party named in the entry within the period set forth in the record.
- (2)
 - (a) In proving the unlawful purchase, sale, gift, or disposal, gratuitous or otherwise, or consumption of an alcoholic product, it is not necessary that the state or commission establish that money or other consideration actually passed or that an alcoholic product is actually consumed if the court or trier of fact is satisfied that:
 - (i) a transaction in the nature of a purchase, sale, gift, or disposal actually occurs; or
 - (ii) consumption of an alcoholic product is about to occur.
 - (b) Proof of consumption or intended consumption of an alcoholic product on premises on which consumption is prohibited, by some person not authorized to consume an alcoholic product on those premises, is evidence that an alcoholic product is sold, given to, or purchased by the person consuming, about to consume, or carrying away the alcoholic product as against the occupant of the premises.
- (3) For purposes of a provision applicable under this chapter to a retail licensee or staff of a retail licensee, the provision is applicable to a resort licensee or hotel licensee or a person operating under a sublicense of the resort licensee or hotel licensee.
- (4) Notwithstanding the other provisions of this chapter, a criminal offense identified in this title as a criminal offense may not be enforced under this chapter if the criminal offense relates to a violation:
 - (a) of a provision in this title related to intoxication or becoming intoxicated; and
 - (b) if the violation is first investigated by a law enforcement officer, as defined in Section 53-13-103, who has not received training regarding the requirements of this title related to responsible alcoholic product sale or furnishing.

Amended by Chapter 80, 2016 General Session